IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7586 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BHARATKUMAR N NANAVATI - Petitioner(s)

Versus

GUJARAT ELECTRICITY BOARD - Respondent(s)

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Appearance :

MR AB PANDYA for Petitioner(s) : 1,
MS LILU K BHAYA for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 18/01/2006

ORAL JUDGMENT

This matter is called out twice today. On both the occasions, the learned advocate appearing on behalf of the petitioner is absent. Under the circumstances, this court has no other alternative but to decide and dispose of the present Special Civil Application on merits *ex*

parte.

By way of this petition under Articles 226 and 227 of the Constitution of India, the petitioner – consumer has prayed for appropriate writ, direction and/or order quashing and setting aside the supplementary bill dated 15-10-98 and revised bill of Rs.4,22,500.65paisa, which is based upon checking of the meter dated 7-10-98 along with other supplementary bills and other charges. The petitioner has also further prayed for a declaration that the respondent, their agents, their servants or any other persons they have no power whatsoever to disconnect the power supply and that no action should be taken against the petitioner for the recovery of any disputed bill.

It appears from the record that the petitioner was having electric connection bearing Consumer No.12701/22373/3 with a contract load of 86 HP and connected load found at the time of checking was 50 HP. There was an inspection carried out by the checking squad on 7-10-98 and it was found by the checking party that the meter body seals were tempered and there was a gap between meter glass and the meter body frame through which thin strip could be inserted in it. The same was registered as a theft case and the checking party took out the seals and the meter and the same was sent to the laboratory for laboratory inspection and on laboratory

inspection which took place on 14-10-98 in presence of the petitioner's representative, the irregularity found by the checking party was confirmed. The petitioner was booked for the theft of electricity and was served with supplementary bill for theft amounting to Rs.4,22,500.65paisa. On deposit of 30% of the amount in two installments and on reconnection, the petitioner preferred appeal before the appellate authority of the GEB and after considering the submission on behalf of the parties, the appellate committee partly allowed the said appeal and directed to revise the supplementary bill by modifying the chargeable days from 160 days to 134 days and revising the product B X C as 0.9 and accordingly directed the GEB to issue revised pay accordingly. Being aggrieved by and dissatisfied with the same, the petitioner has preferred the present Special Civil Application under Articles 226 and 227 of the Constitution of India.

On going through the order passed by the appellate authority, it appears that on appreciation of evidence and considering the checking sheet and laboratory inspection report, the appellate committee has specifically found that the petitioner has committed theft of electrical energy and it was found that the

meter body seals were tempered and there was a gap between meter glass and the meter body frame through which thin strip could be inserted in it. This is a petition under Articles 226 and 227 of the Constitution of India and this court is not exercising appellate jurisdiction over the judgment of the appellate committee of GEB. This court is also not required to re-appreciate the evidence on record. It also appears that the appellate committee has in fact partly allowed the appeal by directing the respondent to revise the supplementary bill while modifying the order with regard to the chargeable days and the load factor.

In view of the above, the petitioner is not entitled to any relief which is prayed in the present Special Civil Application. Hence, there is no substance in the present Special Civil Application and is required to be dismissed and is accordingly dismissed. Rule discharged. However, there will be no order as to costs.

(M.R.SHAH,J.)

shekhar/-